

### **REMARKS**

The present Amendment amends claims 22, 24, 29 and 32, leaves claim 26 unchanged, and cancels claims 23, 25, 27, 28, 30 and 31. Therefore, the present application has pending claims 22, 26, 26, 29 and 32.

In the Office Action the Examiner again rejects claims 22, 29 and 32 under 35 USC §101 being that the Examiner alleges that the invention claimed therein is directed to non-statutory subject matter. Specifically, the Examiner alleges that the claims are directed to a process that does nothing more than manipulate an abstract idea. This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 22, 29 and 32 clearly describes statutory subject matter in accordance with 35 USC §101.

Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

Amendments were made to each of claims 22, 29 and 32 so as to more clearly recite that the method and article of manufacture storing a computer program serves to distribute digital contents in a digital contents distribution system including a content database center which stores digital content, a vending device which sells the digital contents stored in the content database center and a network which interconnects the content database center and the vending device to each other. According to the present invention as now more clearly recited in the claims the digital contents distribution method or computer program causes the vending device to select digital content, the content database center to generate a distribution schedule and to distribute the digital content according to the distribution schedule,

and causes the vending device to sell particular digital content selected by a customer from the distributed digital contents.

Thus, as is quite clear from the above, the claims of the present application as now amended are clearly directed to a practical application that provides a “useful, concrete and tangible result”. The practical application as recited in the claims relates to a digital contents distribution system such as, for example, that illustrated in Fig. 1 which includes a content database center 120, a vending device 150 and a network which interconnects the contents database center 120 and the vending device 150 to each other.

Thus, in light of the above, each of claims 22, 29 and 32 are clearly directed to statutory subject matter under 35 USC §101. Therefore, reconsideration and withdrawal of the 35 USC §101 rejection of claims 22, 29 and 32 is respectfully requested.

Claims 22, 26, 29 and 32 stand rejected under 35 USC §103(a) as being unpatentable over Muyres (U.S. Patent Application No. 2002/0002488) in view of Miller (U.S. Patent No. 5,920,701); and claim 24 stands rejected under 35 USC §103(a) as being unpatentable over Muyres, Miller and Van Wie (U.S. Patent No. 5,943,422). These rejections are traversed for the following reasons. Applicants submit that the features of the present invention as recited in claims 22, 24, 26, 29 and 32 are not taught or suggested by Muyres, Miller or Van Wei whether taken individually or in combination with each other as suggested by the Examiner. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw these rejections.

Applicants note that in the third paragraph on page 2 of the Office Action the Examiner states:

“as per the response regarding Muyres et al, Applicants argue that Muyres et al do not disclose digital contents distributed from the content database center via the distribution management center to the vending device of a store without a distribution request from the store...; however, there is no indication of a content database center, distribution management center or a vending device within the claims. Thus, Applicants are advised to consider revising the claim’s body to include the possible distinct feature; otherwise, Muyres et al in view of Miller et al and/or Van Wie et al teach the recited claims”.

Although Applicants do not necessarily agree with the Examiner’s assessment, amendments were made to the claims so as to more clearly recite the features noted by the Examiner as being “distinct” particularly with regard to the digital contents distribution system including a content database center which stores content, a vending device which sells the digital content stored in the content database center and a network which interconnects the content database center and the vending device to each other. From the above noted passage of the Office Action it is clear that the Examiner considers these elements, when recited in the claims, distinguishing the features of the present invention from Muyres, Miller and Van Wie whether taken individually or in combination with each other.

As noted by the Examiner and as argued in the November 26, 2003 Response, said arguments contained therein being incorporated herein by reference, it was shown that Muyres simply teaches a locally driven advertising system for providing online advertising. Muyres teaches that information is accumulated prior to

formal purchase and such accumulated information once accumulated can be purchased at a later point in time. Muyres teaches that stores of digital content vending machines (DCVM) includes digital contents from two sources namely pre-positioned digital content and extended or master inventory content. The Examiner's attention is directed to paragraph 0092 and 0127 of Muyres.

At no point is there any teaching or suggestion in Muyres as noted by the Examiner of a digital contents distribution system including a content database center which stores digital contents, a vending device which sells the digital contents stored in the content database center and a network which interconnects the content database center and the vending device to each other as recited in the claims.

Further, Muyres fails to teach or suggest that digital contents is distributed to a store when the selected digital contents is not served in the store as recited in the claims.

The above noted deficiencies of Muyres are not supplied by any of the other references of record namely Miller and Van Wie.

Miller merely teaches that a scheduler creates a distribution schedule based on a request from the contents sources. The Examiner's attention is directed to col. 2, lines 2-4 of Miller.

Van Wie merely teaches the necessity of implementing digital rights management in an analog to digital conversion.

As is clear from the above, at no point is there any teaching in either Miller or Van Wie of the above described features of the present invention regarding the contents distribution system including a content database center and a vending

device and the scheduling of the distribution of contents to a store when the selected digital contents is not saved in the store recited in claims. Thus, combining the teachings of any one or more of Miller and Van Wie with Muyres still fails to teach or suggest the features of the present invention as now more clearly recited in the claims.

With respect to claim 26 it is specifically submitted that the features recited in claim 26 are not taught or suggested by Muyres or Miller whether taken individually or in combination with each other as suggested by the Examiner.

Claim 26 recites, for example, a digital contents distribution system having a digital control section for selecting digital contents if the selected contents is not saved in the stores, generating a distribution schedule for controlling distribution of the selected digital contents and instructing distribution of the selected digital contents to each of the stores and a sell section for selling a particular digital content selected by a customer from the distributed digital contents.

Thus, the invention as set forth in claim 26 does not use a shopping cart such as that taught by Muyres and Miller. According to the present invention, a vending device 140 stores information for goods to be saved and presents the information to a customer as a list of selling contents. The Examiner's attention is directed to page 23, lines 6-15 of the present application. Therefore, it is quite clear that the features of the present invention as recited in claim 26 are not taught or suggested by the combination of Muyres and Miller.

Therefore, reconsideration and withdrawal of the above described rejections of claims 22, 24, 26, 29 and 32 under 35 USC §103(a) as being unpatentable over Muyres, Miller and Van Wie is respectfully requested.

Further, according to the present invention as recited in claim 26 the content database center 120 generates a distribution schedule and then distributes digital contents via the distribution management device 130 to the vending device 140 according to the distribution schedule thus generated. Thus, according to the present invention the vending device 140 performs sales of the digital contents distributed thereto by presenting to customers a list of the information for goods stored in the vending device 140. According to the present invention if the vending device 140 receives a customers request for content which is not stored in the vending device, the vending device 140 requests the distribution management device 140 to distribute the content requested by the customer. These features are clearly not taught or suggested by the combination of Muyres and Miller.

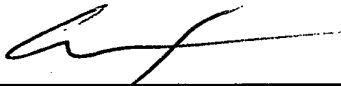
The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the references utilized in the rejection of claims 22, 24, 26, 29 and 32.

In view of the foregoing amendments and remarks, Applicants submit that claims 22, 24, 26, 29 and 32 are in condition for allowance. Accordingly, early allowance of claims 22, 24, 26, 29, 32 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (500.38037CX1).

Respectfully submitted,

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